

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**JOSHUA WILSON, *et al***

**Plaintiffs**

**v.**

**LLOYD AUSTIN, III, *et al.*,**

**Defendants**

§  
§  
§  
§  
§  
§  
§  
§  
§

**Case No. 4:22-cv-438-ALM**

---

**ORDER GRANTING PLAINTIFFS’  
MOTION FOR RECONSIDERATION**

The named plaintiffs in the captioned action have filed a Motion for Reconsideration under FRCP Rule 59(e). Such motions, asking leave to amend or alter a final judgment, have a high burden. One of the reasons to grant such a motion is where there has been an intervening change or clarification in the applicable law. Our higher court issued its decision on the same day that this Court dismissed the plaintiffs’ claims, September 1, 2023. This Court did not have the benefit of the Fifth Circuit’s decision in *Apter v. Dep’t of Health & Hum. Servs.*, No. 22-40802, 2023 WL 5664191 (5th Cir. Sept. 1, 2023), which clearly applies to some, but not all, of Plaintiffs’ listed causes of action.

Given the nearly identical nature of some of the Plaintiffs’ claims to those in the *Apter* decision, the Plaintiffs’ Motion for Reconsideration is hereby GRANTED.

Counts 3 through 8 *only* of the First Amended Complaint are reinstated. The Court will follow up with a scheduling conference with both parties.